

AMENDED IN ASSEMBLY MARCH 20, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1859

Introduced by Assembly Member Maienschein

February 19, 2014

An act to ~~amend Section 6535 of~~ *add Article 7 (commencing with Section 6600) to Chapter 6 of Division 3 of the Business and Professions Code*, relating to professional fiduciaries.

LEGISLATIVE COUNSEL'S DIGEST

AB 1859, as amended, Maienschein. Professional fiduciaries: ~~licensing; professional corporations.~~

Existing law, the Professional Fiduciaries Act, establishes the Professional Fiduciaries Bureau within the Department of Consumer Affairs and requires the bureau to license and regulate professional fiduciaries, as specified.

~~This bill would make a technical, nonsubstantive change to these provisions.~~

The Moscone-Knox Professional Corporation Act provides for the organization of a corporation under specified provisions of law for the purposes of qualifying as a professional corporation under that act and rendering professional services. The act defines professional services as services that may be lawfully rendered only pursuant to a license, certification, or registration authorized by the Business and Professions Code, the Chiropractic Act, or the Osteopathic Act.

This bill would provide for the formation of licensed professional fiduciary corporations pursuant to the act described above, as specified. The bill would provide that it is unprofessional conduct and a violation of the Professional Fiduciaries Act to violate, attempt to violate, directly

or indirectly, or assist in or abet the violation of, or conspire to violate these provisions, the Moscone-Knox Professional Corporation Act, or any regulations duly adopted under those laws. The bill would require the name of a licensed professional fiduciary corporation and any name or names under which it may render professional services to contain the words “professional fiduciary” and wording or abbreviations denoting corporate existence. The bill would require each director, shareholder, and officer of a licensed professional fiduciary corporation to be a licensed professional fiduciary. The bill would prohibit the income of a licensed professional fiduciary corporation attributable to professional services rendered while a shareholder is a disqualified person, as defined, from accruing, in any manner, to the benefit of the shareholder or his or her shares in the licensed professional fiduciary corporation. The bill would authorize the bureau to adopt and enforce regulations to carry out these provisions.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Article 7 (commencing with Section 6600) is*
2 *added to Chapter 6 of Division 3 of the Business and Professions*
3 *Code, to read:*

4
5 *Article 7. Licensed Professional Fiduciary Corporations*

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7 6600. (a) *A licensed professional fiduciary corporation is a*
8 *corporation that is authorized to render professional services, as*
9 *defined in Section 13401 of the Corporations Code, if that*
10 *corporation and its shareholders, officers, directors, and employees*
11 *rendering professional services who are licensed professional*
12 *fiduciaries are in compliance with the Moscone-Knox Professional*
13 *Corporation Act, the provisions of this article, and all other statutes*
14 *and regulations pertaining to the corporation and the conduct of*
15 *its affairs. With respect to a licensed professional fiduciary*
16 *corporation, the governmental agency referred to in the*
17 *Moscone-Knox Professional Corporation Act (Part 4 (commencing*
18 *with Section 13400) of Division 3 of Title 1 of the Corporations*
19 *Code) is the Professional Fiduciaries Bureau.*

1 6601. *It is unprofessional conduct and a violation of this*
2 *chapter for any person licensed pursuant to this chapter to violate,*
3 *attempt to violate, directly or indirectly, or assist in or abet the*
4 *violation of, or conspire to violate any provision or term of this*
5 *article, the Moscone-Knox Professional Corporation Act, or any*
6 *regulations duly adopted under those provisions.*

7 6602. *A licensed professional fiduciary corporation shall not*
8 *commit or omit any act that, if committed or omitted, would*
9 *constitute unprofessional conduct under any statute or regulation.*
10 *A licensed professional fiduciary corporation, in the conduct of*
11 *its practice, shall observe and be bound by these statutes and*
12 *regulations to the same extent as a person holding a license under*
13 *this chapter.*

14 6603. *The name of a licensed professional fiduciary*
15 *corporation and any name or names under which it may render*
16 *professional services shall contain the words “professional*
17 *fiduciary” and wording or abbreviations denoting corporate*
18 *existence.*

19 6604. *Except as provided in Section 13403 of the Corporations*
20 *Code, each director, shareholder, and officer of a licensed*
21 *professional fiduciary corporation shall be a licensed professional*
22 *fiduciary.*

23 6605. *The income of a licensed professional fiduciary*
24 *corporation attributable to professional services rendered while*
25 *a shareholder is a disqualified person, as defined in Section 13401*
26 *of the Corporations Code, shall not in any manner accrue to the*
27 *benefit of the shareholder or his or her shares in the licensed*
28 *professional fiduciary corporation.*

29 6606. *The bureau may adopt and enforce regulations to carry*
30 *out the purposes and objectives of this article, including the*
31 *following:*

32 (a) *A regulation that requires the bylaws of a licensed*
33 *professional fiduciary corporation to include a provision that*
34 *requires the capital stock of the corporation owned by a*
35 *disqualified person, as defined in Section 13401 of the*
36 *Corporations Code, or a deceased person, to be sold to the*
37 *corporation or to the remaining shareholders of the corporation*
38 *within the timeframe provided by the regulation.*

39 (b) *A regulation that requires a licensed professional fiduciary*
40 *corporation to provide adequate security by insurance or otherwise*

1 *for claims against the corporation by its customers arising out of*
2 *the rendering of professional services.*

3 ~~SECTION 1. Section 6535 of the Business and Professions~~
4 ~~Code is amended to read:~~

5 ~~6535. The bureau shall approve or deny licensure in a timely~~
6 ~~manner to applicants who apply for licensure. Upon approval of~~
7 ~~a license, the bureau shall notify the applicant of issuance of the~~
8 ~~license, and shall issue a license certificate identifying the applicant~~
9 ~~as a “licensed professional fiduciary.”~~